

**FINANCIAL OVERSIGHT & MANAGEMENT BOARD
FOR PUERTO RICO**



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BY ELECTRONIC MAIL

June 7, 2022

Richard Cruz Franqui
General Counsel
Puerto Rico Electric Power Authority

Re: Puma Fuel Oil Purchase Contract Amendment

Dear Mr. Cruz Franqui:

In accordance with the contract review policy of the Financial Oversight and Management Board for Puerto Rico (“FOMB”) established pursuant to Section 204(b)(2) of PROMESA (the “Policy”), we have reviewed the proposed amendment to the Fuel Oil Purchase Contract between the Puerto Rico Electric Power Authority (“PREPA”) and Puma Energy Caribe (the “Proposed Amendment”).

After reviewing the Proposed Amendment, the FOMB concludes “Approved with Observations.” Observations related to the Proposed Amendment are set forth in Appendix A attached hereto.

Our review is solely limited to compliance of the Proposed Amendment with Section 204(b)(2) of PROMESA, which seeks to ensure proposed contracts promote market competition and are not inconsistent with approved Fiscal Plans. For the avoidance of doubt, the review performed by the FOMB does not cover a legal review of the contractual documentation or the contracting process, including without limitation: (i) compliance with contracting requirements under applicable laws, rules, and regulations, both federal and local; and (ii) compliance with applicable laws, rules, and regulations governing procurement activities, both federal and local. In addition, the FOMB has not engaged in any due diligence or background check with respect to the contracting parties nor whether the contracting parties comply with the requirements under the applicable contract. Any material changes to the Proposed Amendment or the original contract must be submitted to the FOMB for review and approval **prior to execution**.

This letter is delivered as of the date hereof and we reserve the right to provide additional observations and modify this letter based on information not available when the review was

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conducted. In addition, during the course of our review, we may receive information which we may refer to the relevant authorities.

This letter is issued only to PREPA and solely with respect to the Proposed Amendment.

Sincerely,



Jaime A. El Koury

General Counsel

APPENDIX A

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PUERTO RICO ELECTRIC POWER AUTHORITY – PUMA ENERGY CARIBE, LLC

Fiscal Plan Alignment

This review covers the proposed amendment to the Fuel Oil Purchase Contract (the “Contract”) between the Puerto Rico Electric Power Authority (“PREPA”) and Puma Energy Caribe, LLC (“Puma”) (the “Proposed Amendment”).

The Contract stemmed from a competitive procurement process awarded on September 22, 2021 and contemplates the supply and delivery of residual No. 6 Fuel Oil (“HFO”) for the San Juan, Palo Seco, Aguirre and Costa Sur steam plants (together, the “Units”) via barge vessel or pipeline transfer. Notably, the Contract was approved by the FOMB on October 21, 2021.

The Contract has a term lasting one year from the date of execution, on October 29, 2021, with an optional one-year extension to be exercised at the sole discretion of PREPA and under the same terms and conditions as the Contract at least 120 days before its expiration.¹ Within this initial contract term, HFO shall be delivered to the Units at a rate of up to 1,650,000 barrels per month, with the price to be paid for each barrel of HFO consisting of an escalator plus a fixed price differential, otherwise known as an adder, of \$2.88. Accordingly, the approximate total cost established in the Contract is \$605,923,692. Moreover, the Contract allows PREPA to purchase 25% of HFO from other suppliers if it identifies market sources with lower pricing.

The First Amendment to the Contract was executed on December 31, 2021, and modified the formula used to establish the Contract’s escalator due to recent changes in the way market price is calculated and reported by Platt’s Oilgram Price Report. Notably, the First Amended was not submitted to the FOMB for review and approval in contravention of our contract review policy (the “Policy”). We remind PREPA that (i) the Policy applies to all contracts or series of related contracts, inclusive of any amendments, modifications, or extensions, with an aggregate expected value of **\$10 million** or more, and (ii) PREPA must submit **any amendments, modifications, or extensions** to contracts exceeding the \$10 million threshold regardless of their amount, to ensure compliance with the Policy.

The Proposed Amendment modifies the Contract’s approximate cost to reflect recent fuel cost hikes that have incremented the Contract’s escalator, principally due to the current international state of affairs and market conditions. Specifically, the Proposed Amendment increases the Contract’s approximate cost by **\$959,407,755**, from \$605,923,692 to **\$1,565,331,447**, without altering the adder (\$2.88) established in the original Contract.

PREPA has certified that (i) the increase is a pass-through expenditure with **no budgetary impact**, and (ii) the funds to pay for the Proposed Amendment are unrestricted, unobligated and available without future encumbrances or restrictions, and will not be obligated except for the payment of the Proposed Amendment. Payments will be charged to PREPA’s budget account number 1-2321-23215-000-000.

¹ We remind PREPA that, in the event it intends to execute any optional extension allowed under the Contract, such extension must be submitted for review and approval prior to execution, in accordance with the FOMB’s contract review policy.

APPENDIX A

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PREPA is expected to inform the FOMB of any budgetary differences other than those specified in Appendix A (Contract Submissions Questionnaire) and to request a re-review of the Proposed Amendment should any changes occur.

This contract review was conducted on the basis of information submitted by PREPA. The FOMB has not independently verified the information included in the submission. Should the FOMB become aware of any inaccuracies or misrepresentations – whether intentional or not – it would re-evaluate its assessment.